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APPLICATION NO.	FILING DATE	FIRST NAMED INVENTOR	ATTORNEY DOCKET NO.	CONFIRMATION NO.
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12/15/2003

Nagalinga Durga Prasad Sripathi Panditharadhy

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WOODCOCK WASHBURN LLP (MICROSOFT CORPORATION)
ONE LIBERTY PLACE - 46TH FLOOR
PHILADELPHIA, PA 19103

EXAMINER

HUYNH, CONG LAC T

ART UNIT

PAPER NUMBER

2178

DATE MAILED: 07/14/2006

Please find below and/or attached an Office communication concerning this application or proceeding.

Office Action Summary	Application No. 10/736,333	Applicant(s) PANDITHARADHYA ET AL.	
	Examiner Cong-Lac Huynh	Art Unit 2178	

-- The MAILING DATE of this communication appears on the cover sheet with the correspondence address --

Period for Reply

A SHORTENED STATUTORY PERIOD FOR REPLY IS SET TO EXPIRE 3 MONTH(S) OR THIRTY (30) DAYS, WHICHEVER IS LONGER, FROM THE MAILING DATE OF THIS COMMUNICATION.

- Extensions of time may be available under the provisions of 37 CFR 1.136(a). In no event, however, may a reply be timely filed after SIX (6) MONTHS from the mailing date of this communication.
- If NO period for reply is specified above, the maximum statutory period will apply and will expire SIX (6) MONTHS from the mailing date of this communication.
- Failure to reply within the set or extended period for reply will, by statute, cause the application to become ABANDONED (35 U.S.C. § 133). Any reply received by the Office later than three months after the mailing date of this communication, even if timely filed, may reduce any earned patent term adjustment. See 37 CFR 1.704(b).

Status

- 1) ☒ Responsive to communication(s) filed on 03 May 2006.
- 2a) ☒ This action is **FINAL**. 2b) ☐ This action is non-final.
- 3) ☐ Since this application is in condition for allowance except for formal matters, prosecution as to the merits is closed in accordance with the practice under *Ex parte Quayle*, 1935 C.D. 11, 453 O.G. 213.

Disposition of Claims

- 4) ☒ Claim(s) 1-20 is/are pending in the application.
- 4a) Of the above claim(s) _____ is/are withdrawn from consideration.
- 5) ☐ Claim(s) _____ is/are allowed.
- 6) ☒ Claim(s) 1-20 is/are rejected.
- 7) ☐ Claim(s) _____ is/are objected to.
- 8) ☐ Claim(s) _____ are subject to restriction and/or election requirement.

Application Papers

- 9) ☐ The specification is objected to by the Examiner.
- 10) ☐ The drawing(s) filed on _____ is/are: a) ☐ accepted or b) ☐ objected to by the Examiner.
Applicant may not request that any objection to the drawing(s) be held in abeyance. See 37 CFR 1.85(a).
Replacement drawing sheet(s) including the correction is required if the drawing(s) is objected to. See 37 CFR 1.121(d).
- 11) ☐ The oath or declaration is objected to by the Examiner. Note the attached Office Action or form PTO-152.

Priority under 35 U.S.C. § 119

- 12) ☐ Acknowledgment is made of a claim for foreign priority under 35 U.S.C. § 119(a)-(d) or (f).
- a) ☐ All b) ☐ Some * c) ☐ None of:
1. ☐ Certified copies of the priority documents have been received.
 2. ☐ Certified copies of the priority documents have been received in Application No. _____.
 3. ☐ Copies of the certified copies of the priority documents have been received in this National Stage application from the International Bureau (PCT Rule 17.2(a)).

* See the attached detailed Office action for a list of the certified copies not received.

Attachment(s)

- | | |
|--|---|
| 1) <input checked="" type="checkbox"/> Notice of References Cited (PTO-892) | 4) <input type="checkbox"/> Interview Summary (PTO-413)
Paper No(s)/Mail Date. _____ |
| 2) <input type="checkbox"/> Notice of Draftsperson's Patent Drawing Review (PTO-948) | 5) <input type="checkbox"/> Notice of Informal Patent Application (PTO-152) |
| 3) <input type="checkbox"/> Information Disclosure Statement(s) (PTO-1449 or PTO/SB/08)
Paper No(s)/Mail Date _____ | 6) <input type="checkbox"/> Other: _____ |

DETAILED ACTION

1. This action is responsive to communications: amendment filed 5/3/06 to the application filed on 12/15/03.
2. Claims 1-20 are pending in the case. Claims 1, 5, and 13 are independent claims.
3. The rejections of claims 1-2, 4 under 35 U.S.C. 103(a) as being unpatentable over Olsen in view of Hohmann have been withdrawn in view of the amendment.

Claim Rejections - 35 USC § 101

4. 35 U.S.C. 101 reads as follows:

Whoever invents or discovers any new and useful process, machine, manufacture, or composition of matter, or any new and useful improvement thereof, may obtain a patent therefor, subject to the conditions and requirements of this title.

5. Claims 5-12 remain rejected under 35 U.S.C. 101 because the claimed invention is directed to non-statutory subject matter.

Claims 5-12, as amended, are directed to a computer readable medium having stored thereon an editor for defining an XML schema. Said editor is non-statutory since it is a non-functional descriptive material as rejected in the previous office action. The non-functional descriptive material, even though is stored in a computer readable medium, is still a non-statutory subject matter, according to MPEP 2106:

"Both types of "descriptive material" are nonstatutory when claimed as descriptive material per se. Warmerdam, 33 F.3d at 1360, 31 USPQ2d at 1759. When functional descriptive material is recorded on some computer-readable medium it becomes

*structurally and functionally interrelated to the medium and will be statutory in most cases since use of technology permits the function of the descriptive material to be realized. Compare In re Lowry, 32 F.3d 1579, 1583-84, 32 USPQ2d 1031, 1035 (Fed. Cir. 1994) (claim to data structure stored on a computer readable medium that increases computer efficiency held statutory) and Warmerdam, 33 F.3d at 1360-61, 31 USPQ2d at 1759 (claim to computer having a specific data structure stored in memory held statutory product-by-process claim) with Warmerdam, 33 F.3d at 1361, 31 USPQ2d at 1760 (claim to a data structure per se held nonstatutory). **When nonfunctional descriptive material is recorded on some computer-readable medium, it is not statutory since no requisite functionality is present to satisfy the practical application requirement. Merely claiming nonfunctional descriptive material stored in a computer-readable medium does not make it statutory. Such a result would exalt form over substance.***

Claim Rejections - 35 USC § 103

6. The following is a quotation of 35 U.S.C. 103(a) which forms the basis for all obviousness rejections set forth in this Office action:

(a) A patent may not be obtained though the invention is not identically disclosed or described as set forth in section 102 of this title, if the differences between the subject matter sought to be patented and the prior art are such that the subject matter as a whole would have been obvious at the time the invention was made to a person having ordinary skill in the art to which said subject matter pertains. Patentability shall not be negated by the manner in which the invention was made.

7. Claims 1-4 are rejected under 35 U.S.C. 103(a) as being unpatentable over Olsen (US Pat App Pub No 2004/014862, 7/29/04, filed 1/27/03) in view of Hohmann et al. (US Pat App Pub No 2005/0256965, 11/17/05, priority 4/7/00) and Fuh et al. (US Pat App Pub No 2004/0073870, 4/15/04, priority 10/15/02).

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Regarding independent claim 1, Olsen discloses:

- including nodes within said XML schema to define characteristics of the non-XML data stream (figures 2B, 5A-B, [0025], [0026])

Olsen does not disclose:

- receiving said non-XML data stream
- parsing said non-XML data in accordance with information contained in said nodes
- creating said XML instance containing said input data

Hohmann discloses:

- receiving said non-XML data stream ([0295]: receiving non-XML document)
- parsing said non-XML data in accordance with information contained in said nodes ([0295], figure 16)
- creating said XML instance containing said input data ([0295])

It would have been obvious to one of ordinary skill in the art at the time of the invention was made to have combined Hohmann into Olsen since Hohmann discloses generating a XML instance via a XML data from a non-XML data providing the advantage to incorporate into the XML schema for the input data in Olsen for obtaining a XML instance for some input data according to a XML schema.

Olsen and Hohmann do not disclose:

- annotating the nodes with property information pertaining to the schema level of the nodes

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Fuh discloses annotating the XMLschema with said nodes with property information pertaining to the schema level of the nodes ([0026], [0029]-[0030], [0036]).

It would have been obvious to one of ordinary skill in the art at the time of the invention was made to have combined Fuh into Hohmann and Olsen for the following reason.

Fuh discloses annotating the XML schema with nodes with property information pertaining to the schema level of the node, thus motivating to include in the presentation of the XML schema in Hohmann and Olsen to provide a XML schema understandable with explanatory notes.

Regarding claim 2, which is dependent on claim 1, Olsen discloses defining, in said XML schema, delimiters, TagNames, positional information within said non-XML data stream (figures 2B, 5A-B).

Regarding claim 3, which is dependent on claim 1, Olsen and Hohmann does not disclose annotating said XMLschema with said nodes in accordance with standard conventions applicable to an XSD schema.

Fuh discloses annotating the XMLschema with said nodes in accordance with standard conventions applicable to an XSD schema (figures 3-4, [0007], [0026], [0029]-[0030], [0036]).

It would have been obvious to one of ordinary skill in the art at the time of the invention was made to have combined Fuh into Hohmann and Olsen for the following reason.

Fuh discloses annotating the XML schema with nodes in accordance to an XSD

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schema providing the advantage to include in the XML schema in Hohmann and Olsen for offering an easy understanding of a XML schema via annotations.

Regarding claim 4, which is dependent on claim 1, Olsen discloses that the non-XMLdata comprises at least one of flat files, EDI files, and COBOL files (figs 2B, 5A-B).

8. Claims 13-20 are rejected under 35 U.S.C. 103(a) as being unpatentable over Fuh et al. (US Pat App Pub No 2004/0073870, 4/15/04, priority 10/15/02).

Regarding independent claim 13, Fuh discloses:

- providing assemblies containing implementation to extend a functionality of a schema compiler ([0029], [0035]: providing the Annotated Automation Encoding format with the addition of annotations, which is attributes for element nodes in the XML schema tree shows assemblies with implementation to extend a functionality of the XML schema compiler)
- referencing definitions of interfaces for exposing extended functionalities to said schema editor (figures 3, 5)
- annotating the XMLschema with said nodes with property information pertaining to the schema level of the nodes ([0026], [0029]-[0030], [0036])

Fuh does not explicitly disclose the schema editor. However, Fuh does teach the XML schema compiler which receives XML schema definition as input and generates a structured hierarchy for the XML schema definition and represents it in an annotated tree ([0034]-[0036]).

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It would have been obvious to one of ordinary skill in the art at the time of the invention was made to have modified Fuh to include a schema editor since the feature in Fuh implies that the schema is added with annotations, and thus modified. This suggests that the XML schema compiler further has a role of an editor.

Regarding claim 14, which is dependent on claim 13, Fuh discloses that said extended functionalities include additional properties added to elements and attributes of an XML schema ([0029], figures 3, 5: additional attributes via annotations in the XML schema tree shows additional properties added to elements of an XML schema).

Regarding claim 15, which is dependent on claim 14, Fuh discloses providing a property manager that implements an interface to define custom properties for said elements and attributes ([0035]: defining attributes of the element nodes where the attributes are considered custom properties implies that there is a properties manager for performing said function).

Regarding claim 16, which is dependent on claim 15, Fuh discloses storing said custom properties within said XML schema (figure 3, #308).

Regarding claim 17, which is dependent on claim 15, Fuh discloses annotating said XML schema to describe non-XML data streams (figure 3, [0040], [0041]).

Regarding claim 18, which is dependent on claim 15, Fuh discloses providing a validator to validate said custom properties ([0047], [0048][0064], [0071], [0072]).

Regarding claim 19, which is dependent on claim 15, Fuh discloses providing an instance generator for generating an instance of said XML schema (figure 5).

Regarding claim 20, which is dependent on claim 13, Fuh discloses annotating a schema being edited by said schema editor to include information about said extended functionalities ([0033]-[0035]: annotations for XML schema shows annotating a schema which is edited to include attributes of sub-elements, which are considered information about extended functionalities).

Conclusion

9. **THIS ACTION IS MADE FINAL.** Applicant is reminded of the extension of time policy as set forth in 37 CFR 1.136(a).

A shortened statutory period for reply to this final action is set to expire THREE MONTHS from the mailing date of this action. In the event a first reply is filed within TWO MONTHS of the mailing date of this final action and the advisory action is not mailed until after the end of the THREE-MONTH shortened statutory period, then the shortened statutory period will expire on the date the advisory action is mailed, and any extension fee pursuant to 37 CFR 1.136(a) will be calculated from the mailing date of the advisory action. In no event, however, will the statutory period for reply expire later than SIX MONTHS from the mailing date of this final action.

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10. The prior art made of record and not relied upon is considered pertinent to applicant's disclosure.

Murthy et al. (US Pat App Pub No 2003/0140308, priority 9/28/01).

Little et al. (US Pat App Pub No 2005/0125720, filed 12/9/03).

Lo (US Pat App Pub No 2005/0114405, filed 11/25/03).

Ballard et al. (US Pat App Pub No 2005/018553, filed 12/18/03).

Rothschiller et al. (US Pat App Pub No 2006/0117250, priority 2/28/03).

11. Any inquiry concerning this communication or earlier communications from the examiner should be directed to Cong-Lac Huynh whose telephone number is 571-272-4125. The examiner can normally be reached on Mon-Thurs (9:00-7:00).

If attempts to reach the examiner by telephone are unsuccessful, the examiner's supervisor, Stephen Hong can be reached on 571-272-4124. The fax phone number for the organization where this application or proceeding is assigned is 571-273-8300.

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Information regarding the status of an application may be obtained from the Patent Application Information Retrieval (PAIR) system. Status information for published applications may be obtained from either Private PAIR or Public PAIR. Status information for unpublished applications is available through Private PAIR only. For more information about the PAIR system, see <http://pair-direct.uspto.gov>. Should you have questions on access to the Private PAIR system, contact the Electronic Business Center (EBC) at 866-217-9197 (toll-free). If you would like assistance from a USPTO Customer Service Representative or access to the automated information system, call 800-786-9199 (IN USA OR CANADA) or 571-272-1000.



Cong-Lac Huynh
Primary Examiner
Art Unit 2178
7/11/06